

\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 143/2015**

ZAFFAR BADYARI

..... Appellant

Represented by: Mr.Rajat Joseph, Advocate

versus

M/S RATTAN FURNITURE STORE

..... Respondent

Represented by: None

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

% **29.03.2016**

1. On March 13, 2013 an order was passed in the suit that the license fee/occupation charges with effect from August, 2011 till March 31, 2013 shall be paid by the appellant to the respondent, and since the appellant claimed to have made substantial payments it was directed that the appellant shall enclose a statement indicating the relevant dates and the manner in which payments statedly made to the respondent were paid.

2. By way of an affidavit the appellant disclosed as under:-

DATE OF PAYMENT	RENT PERIOD	RENT AMOUNT PAID	MODE OF PAYMENT & PROOF
1-10, August, 2011	August, 2011	150000/-	Cash Without Receipt
1-10 September, 2011	September, 2011	150000/-	Cash Without Receipt
1-10 October, 2011	October, 2011	150000/-	Cash Without Receipt

1-10 November, 2011	November, 2011	150000/-	Cash Without Receipt
1-10 December, 2011	December, 2011	150000/-	Cash Without Receipt
1-10 January, 2012	January, 2012	150000/-	Cash Without Receipt
1-10 February, 2012	February, 2012	150000/-	Cash Without Receipt
1-10 March, 2012	March, 2012	150000/-	Cash Without Receipt
1-10 April, 2012	April, 2012	150000/-	Cash Without Receipt
1-10 May, 2012	May, 2012	150000/-	Cash Without Receipt
1-10 June, 2012	June, 2012	150000/-	Cash Without Receipt
1-10 July, 2012	July, 2012	150000/-	Cash Without Receipt
1-10 August, 2012	August, 2012	150000/-	Cash Without Receipt
10 September, 2012	September, 2012	150000/-	Cheque Nos.755866 & 755865 declined to be accepted
22.11.2012	October & November, 2012	300000/-	HDFC Cheques No.129615 & 129616 vide Order dated 22.11.2012 in Cont.Cas.(C) 836/2011
1-10, December, 2012	December, 2012	150000/-	Cash Without Receipt
10 April, 2013	January & February, 2013	300000/-	4 Demand Drafts vide Order dated 10.04.2013

3. This resulted in the impugned order dated March 12, 2015 being

passed directing that the so called cash payments unsupported by any receipt would not be accepted and thus the license fee be paid for the months for which as per the appellant it had made the payment by cash; but had not obtained any receipt.

4. Learned counsel for the appellant seeks to urge that it would be a matter of evidence whether payments have been made.

5. We have asked learned counsel whether the appellant has any entry in any book of account of any cash payment being made, and if so, whether the same can be produced for scrutiny by the Court. The counsel responds in the negative.

6. We thus find no infirmity in the impugned order. The appellant has no proof of making payments as alleged by the appellant in cash. If at the trial the appellant can prove payments made in cash the adjustment would be given by the learned Single Judge.

7. The appeal is dismissed.

8. No costs.

CM No.5655/2015

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 29, 2016

mamta